TEACHERS' RETIREMENT BOARD

REGULAR MEETING

SUBJECT: Update on Federal Legislation | ITEM NUMBER: 9b

ATTACHMENT(S): 4

ACTION: ___ | MEETING DATE: May 4, 2000

INFORMATION: X | PRESENTER: Ed Derman

SUMMARY

The Senate has been occupied with making progress on the budget, which will likely consume their time remaining before the Easter recess (April 25th through the 28th). The House is focusing on pension tax changes as a means of keeping alive the retirement security theme absent any prospects for fundamental Social Security reform this year. The House will break for Easter the last two weeks of April and return to business on May 1st. Following is a summary of Hogan & Hartson's comprehensive report for April (Attachment I):

Elk Hills Compensation:
Our Elk Hills champion, Representative Bill Thomas, continues to press for the "advance appropriation" request for payment of Elk Hills compensation, as included in the President's budget. This arrangement would eliminate the current annual legislative process to enact the appropriation, although actual payments would be made over a five-year period. Representative Thomas has gained support from the entire California delegation in a revised letter to the House appropriators in this regard, with a fallback position requesting the third annual $36 million installment due for Fiscal Year 2001. The guaranteed "advanced appropriation" would also move back the timing of each annual payment from March to October (highlights of the revised letter are included in the attached report). Governor Davis submitted a similar request, and Jim Mosman submitted written testimony to the appropriate subcommittees of the two Appropriations Committees.

Social Security:

- Congress has passed and President Clinton signed legislation (Public Law 106-182) that repeals the current limit on earnings by Social Security recipients who are between age 65 and 69;

- There are continuing efforts to explore alternatives for relief from the Windfall Elimination Provision for individuals who are eligible to receive benefits from Social Security covered employment and who are also receiving a pension from non-covered employment, such as CalSTRS. California Representative Bob Matsui has expressed an interest in this issue and is willing to assist our efforts.

- Various national coalitions are also mounting efforts to provide relief for another offset, the Governmental Pension Offset, which reduces the Social Security spousal benefit if the spouse is also receiving a CalSTRS pension.

- Reports indicate some short-term improvement in the solvency of the Social Security trust fund. The likelihood of Social Security reform, therefore, will almost certainly await the next President and Congress.

Medicare:
Congress is in receipt of language to implement President Clinton's June 1999 reform proposal. This proposal would add competition and other cost-savings measures to the existing program, offer a new prescription drug benefit (funded from $40 billion set aside in the proposed budget) and a "buy-in" option for those individuals who are between ages 62 and 65, as specified. Because reports indicate some improvement in the solvency of the Medicare trust fund to the year 2037, it is unlikely that comprehensive reform of the Medicare program will happen this election year.

Pension Portability:
The minimum wage legislation, which includes provisions increasing pension portability between specified plans (e.g., defined benefit/contribution, tax-sheltered annuity and deferred compensation) has passed both the House and Senate, and awaits a Conference Committee to reconcile differences between the House and Senate. President Clinton has expressed opposition to proposed tax cuts contained in this minimum wage legislation. House Republican leaders have reportedly indicated to sponsors of the pension portability provisions that they are willing to seek full House approval of those provisions in a separate measure, if the tax changes are not signed into law.

Bankruptcy Reform Provisions Affecting Pensions (H.R. 833):
This legislation has been put on hold, which will allow time to resolve controversial issues. Specifically, a provision added to this bill at the last minute would "permit" a pension plan participant to waive by contract all of the Federal bankruptcy protections for his/her interest in a pension plan. Also, various public plan groups are coordinating efforts to clarify provisions relating to the treatment of mandatory pension contributions and pension loan repayments in the case of individual debtors operating under the Chapter 13 repayment plan.

Mr. Derman will present an update to these activities and any new developments not covered in this report at the meeting.

Attachment 1
Regular Meeting Item – 9b
May 4, 2000

MEMORANDUM FOR
THE CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

Washington Monthly Report

Elk Hills Compensation

As reported previously, the Administration's budget for FY 2001 requests an "advance appropriation" for payment to STRS of the remaining balance of Elk Hills compensation now being held in the federal Elk Hills School Lands Fund. Under such an advance appropriation, STRS would continue to be paid in accordance with the annual installment schedule under the State's Settlement Agreement with the Federal Government, but the annual appropriations for each of the out-years would now be locked in, so that the annual legislative ordeal of enacting the appropriation of each installment would not have to be repeated year-by-year in the future.

Locking in the future appropriation of the Elk Hills installments would relieve a considerable burden of future legislative effort. However, at the same time an advance appropriation is a major exception to the annual appropriations process in which the spending for each program, at least theoretically, is open for reconsideration. In addition, Congressional appropriators are generally resistant to anything that ties their hands for the future, especially for a significant spending item such as Elk Hills. Further, Congressional GOP budget hawks, led by Sen. Phil Gramm (R-Tex.), have sought to limit the use of advance appropriations and other appropriations devices that were used last year to shift current year spending into the following fiscal year in the effort to push current year spending levels below budget caps.

After considering the matter at some length, our Congressional champion on the Elk Hills issue, Rep. Bill Thomas (R-Bakersfield), concluded that the Administration's advance appropriation request presented a one-time opportunity that was unlikely to be repeated in future Administration budgets and hence should be pursued. In addition, some very preliminary discussions with Appropriations staff indicated that a request for an advance appropriation, while a long shot, would not necessarily be rejected out of hand.

Accordingly, Rep. Thomas decided to revise the letter of support from the California Congressional delegation to the House appropriators to request an advance appropriation of the remaining Elk Hills installments, with the fallback position being a request for appropriation of the third annual $36 million installment due for FY 2001.

The revised California delegation letter to the Chairman of the House Interior Appropriations Subcommittee states in part:

"The Administration's budget for FY 2001 has proposed an 'advance appropriation' for the remaining annual installments of compensation due to the State of California, a suggestion we hope you will consider. The funds are there, having been set aside from the sales proceeds in an escrow fund in the federal budget for the purpose of compensating the State, as Congress had directed. In 1998 and 1999, and now for the third time, the California House delegation has written to you in strong support of the appropriation of this Elk Hills compensation.

Adopting an advance appropriation this year to provide for the remaining annual installments would relieve your Subcommittee of the burden of having to address this issue, and contend with the Senate, four more times in the future."

The letter concludes:

"We would very much appreciate your serious consideration of including in the FY 2001 Interior Appropriations bill an advance appropriation to provide for the remaining annual installments of Elk Hills compensation due to the State. At the minimum, we strongly urge the appropriation of $36 million for FY 2001 to pay the State of California the third annual installment of compensation due under the Settlement Agreement with the State regarding the Elk Hills Naval Petroleum Reserve."

In exchange for a guarantee of appropriation of the remaining installment payments, the revised letter indicates the delegation's willingness for move back the timing of each annual payment from March, the current payment date, to October of the same calendar year.

We had secured one by one the signatures of the entire 52-Member California House to the first version of the Elk Hills delegation letter that had been drafted before the Administration's budget request was made. Because of the substantive revisions to the delegation letter to include a request for an advance appropriation, Rep. Thomas felt compelled to recirculate the revised letter to the entire delegation for approval. Accordingly, we were required to go back around to each of the 52 California offices and go through the entire drill all over again. The California Retired Teachers Association assisted in the effort. At long last, we got the entire delegation signed on again. (A copy of the final California delegation letter is attached.)

In addition, we worked with STRS staff to prepare and file with the House and the Senate Interior Appropriations Subcommittees the attached statement on behalf of STRS under the name of the Chief Executive Officer of STRS. This Congressional testimony lays out in more detail than the California delegation letter the background and case for appropriation of the Elk Hills compensation.

Finally, the Governor's office in Washington continues to be very helpful with both the Administration and Congress on the Elk Hills issue. The Governor's letter of appropriations priorities to the Chairman of the House Interior Appropriations Subcommittee lists the Elk Hills compensation issue first and makes a strong pitch for the fullest possible appropriation. (Copy attached for reference.)

In anticipation of at least the possibility of an advance appropriation, we have been coordinating with the Deputy State Attorney General, with whom we worked in negotiating the original Settlement Agreement with the Federal Government, to ensure that such an advance appropriation approach would properly reflect the framework of the Settlement Agreement. The State's 9 percent share of the Elk Hills sales proceeds amounts to approximately $324 million. The current balance in the federal Elk Hills School Lands fund – for which the President has requested an advance appropriation – is net of an approximately $26 million "hold-back" from the State's share pending the final equity determination of the Federal Government's share of the Elk Hills field (through which the State claims) vis-à-vis the Federal Government's co-owner prior to the sale, Chevron. This escrow will be released once the final equity shares are determined, sometime within the next 2 to 3 years, under current expectations. The Administration's advance appropriations request applies to the current balance in the Elk Hills School Lands Fund and accordingly does not include the $26 million "hold-back" or the State's 9 percent share of any additional sales proceeds that the Federal Government would receive upon increase of its equity interest in the final determination. The State Attorney General has prepared a memorandum detailing this issue, which Rep. Thomas has provided to the House Interior Appropriations Subcommittee.

Mandatory Social Security

Congress has now passed and the President has signed into law legislation that would repeal the current limit on earnings by Social Security recipients aged 65-69. That is expected to be it on the Social Security front for the year.

The already-dim prospects for legislative action this year on fundamental Social Security reform have faded even more with the release late last month by the Social Security Board of Trustees of *The 2000 Annual Report* on the financial status of the Social Security trust fund. Because of continuing strong economic growth, the Social Security Trustees project that the trust fund will begin running cash deficits in the year 2015 – one year later than projected in last year's report. The trust fund is expected to be depleted by 2037 – three years later than projected last year. At that point, Social Security benefits would have to be paid from current payroll tax revenues, which would cover only 72 percent of benefits, leaving a substantial shortfall. House Ways and Means Social Security Subcommittee Chairman E. Clay Shaw, Jr. (R-Fla.) cautioned that this slight short-term improvement should not obscure the critical long-term problems faced by the Social Security trust fund, which will face worsening cash flow problems with each passing year after 2015.

The will and the way, if any, on fundamental Social Security reform will await the next President and Congress.

We are continuing to coordinate with STRS staff and interested employee groups in exploring possible avenues for legislative relief from the "windfall offset" which reduces the Social Security benefits from Social Security-covered employment for a retiree who also receives a State, local, or Federal pension from his or her own non-Social Security covered employment. Rep. Bob Matsui (D-Sacramento), the ranking Democrat on the House Ways and

Means Social Security Subcommittee, has been sympathetic on the windfall offset issue and has expressed a willingness to help.

The National Education Association, the National Association of Retired Federal Employees, and other national groups of public employees have mounted a legislative effort to provide relief under the other Social Security offset, the so-called "government pension offset (GPO)", which reduces the spousal benefits under Social Security of a spouse who receives a State or local (or Federal) government pension from non-Social Security covered employment. However, efforts in the House and Senate to raise a GPO relief amendment to the Social Security earnings limit repeal legislation were barred on parliamentary grounds in order to keep this politically popular legislation "clean" of extraneous amendments. The Social Security earning limit legislation, just signed into law, is expected to be the last legislative vehicle addressing Social Security issues for the remainder of this year.

Medicare

On March 20, the Administration sent to Congress legislative language to implement the President's June 1999 Medicare reform proposal. The President's Medicare proposal seeks to add competition and other cost-savings measures to the existing Medicare regime, coupled with an expensive new prescription drug benefit. The Administration's Medicare reform proposal also includes a "buy-in" to the Medicare program for those aged 62-65 for approximately $300 per month, coupled with a risk adjusted payment once they reach the Medicare eligibility age of 65.

There have been some recent indications that the Senate Finance Committee could begin drafting Medicare reform legislation in May. However, there is no firm sense as how, when, and indeed whether, the Finance Committee will proceed on this front. Further, Senate Finance Committee Chairman Bill Roth (R-Del.) is scheduled to have back surgery in mid-April that is expected to sideline him well into May. For now, the Senate has been occupied with passing the budget, which is likely to take up much of the time remaining before the Easter recess, which sends the Senate home for the last two weeks of April. The proposed budget does set aside $40 billion for adoption of a new prescription drug benefit. It may well be that the politically popular prescription drug benefit becomes the focus of the legislative efforts with respect to Medicare this year, at the expense of broader Medicare reform legislation.

The annual report of the Medicare trustees, released in conjunction with the Social Security trust fund report late last month, reports similar short-term improvement in the solvency of the Medicare trust fund. The point at which the Medicare trust will be fully exhausted has been extended by eight years, until the year 2037. As with Social Security reform, this pushing of the Medicare solvency problem farther off into the distance could further sap momentum to undertake comprehensive reform of the Medicare program in this election year.

Pension Portability

The minimum wage legislation, now passed by both the House and the Senate and awaiting a Conference to reconcile the differences, includes as part of the accompanying "small business" tax cuts a series of pension tax law changes that would liberalize a series of current law limits on benefits under defined benefit, defined contribution, section 403(b) annuity, and section 457 deferred compensation plans and would facilitate portability of benefits among defined benefit plans, section 403(b) plans, and section 457 plans of State and local governments.

President Clinton has expressed opposition to the tax cuts attached to the minimum wage legislation as being too large and too tilted toward higher-income taxpayers.

With the dim prospects for fundamental Social Security reform this year, the House GOP have focused on pension tax changes as a means of keeping alive the retirement security theme that has begun to really resonate with the aging Baby Boom generation. Accordingly, House Republican leaders reportedly have given Rep. Rob Portman (R-Ohio), the chief GOP sponsor of the pension provisions, an indication that if the tax changes attached to the minimum wage legislation are not signed into law, they would be willing to bring up the pension provisions as a stand-alone measure for a vote of the full House.

Bankruptcy Reform Provisions Affecting Pensions

Several wrinkles have developed in the pending bankruptcy reform legislation (H.R. 833) that affect the interests of participants in pension plans.

On the helpful front, a provision sponsored by Sen. Orrin Hatch (R-Utah) would codify at the Federal level protections for the participant's interest in a pension plan, including a governmental plan, in the event of a participant's bankruptcy. A comparable provision has been included in the House version, though it is less technically refined in its definition of governmental plans.

However, a pernicious provision has been discovered that was slipped into the bankruptcy bill at the last minute on the Senate Floor (by it has been speculated, a staffer of Sen. Charles Grassley (R-Iowa)). Under this provision, a pension plan participant would be "permitted" to waive by contract all of the (current law and newly-codified) Federal bankruptcy protections for his or her interest in the pension plan. If this provision were adopted, it is expected that such a waiver would become a standard boilerplate provision of consumer lending agreements, which often provide already for a "blanket security interest" in all of the borrower's assets. Once discovered, this pernicious provision has exploded into controversy, with Senate Education, Labor, and Pensions Committee Chairman Jim Jeffords (R-Vt.) immediately scheduling an April 13 hearing into the matter and Senate Finance Committee Chairman Bill Roth (R-Del.) strongly opposing the proposal.

Finally, a question has arisen as to the treatment of mandatory pension contributions and pension loan repayments in the case of individual debtors who are operating under a Chapter 13 repayment plan. In lieu of liquidating assets to pay creditors under Chapter 7, the Bankruptcy Code provides individual debtors receiving a regular source of income with the option to adjust and repay their debts under a Chapter 13 plan, which can commit all of the debtor's "disposable income" for a period of three to five years to repay debts. Several recent Bankruptcy Court decisions in the New York City area have held mandatory pension contributions and pension loan repayments to constitute "disposable income" for this purpose which must be distributed to the creditors under the Chapter 13 repayment plan.

Both the House and the Senate versions of the bankruptcy reform legislation already exclude employee contributions (whether withheld from wages or made by the employee) from the bankruptcy estate that is available to creditors. We have been coordinating with several public plan groups that are working to clarify the application of this new provision to governmental plans as well as seeking to extend its reach to the Chapter 13 repayment plan situation.

Because of parliamentary objections, a House-Senate Conference on the bankruptcy reform legislation has been on hold. This delay may provide a window of time to iron out these pension wrinkles.

John S. Stanton

April 12, 2000

GOVERNOR GRAY DAVIS

March 29, 2000

The Honorable Ralph Regula
Chairman
House Appropriations Subcommittee on Interior
B-308 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Regula:

As your subcommittee begins the process of preparing the FY 2001 Interior Appropriations bill, I want to take this opportunity to share with you California's priorities and ask for your assistance in funding these projects and programs.

<u>Elk Hills School Lands Fund</u>

We greatly appreciate your recent efforts to provide annual funds to California for our share of payments stemming from the sale of the Elk Hills Naval Petroleum Reserve. The state applies these funds to supplement the pensions of retired teachers whose pensions have been eroded by inflation. I urge the subcommittee's continuing support of this important endeavor by providing the fullest possible appropriation of funds to California.

As you know, the President's FY 2001 budget proposes an "advance appropriation" for the remaining annual installments of compensation due to California. Under this mechanism, payment to California for fiscal years 2002-2006 would be made available on October 1 of each fiscal year. In addition to providing $36 million for the upcoming fiscal year, I hope you will give serious consideration to adopting an advance appropriation in order to eliminate the need for your subcommittee to revisit this issue annually through FY 2006.

<u>Land and Water Conservation Fund</u>

I ask the subcommittee to support the budget request of $150 million for LWCF stateside grants. This program represents an important effort to augment state funding aimed at addressing recreational and open space needs.

STATE CAPITOL • SACRAMENTO, CALIFORNIA 95814 • (916) 445-2841

Land Acquisitions

The Administration's Lands Legacy initiative proposes to acquire and preserve lands in various parts of California. We support this effort to protect these vitally important tracts of land in California, and I urge the subcommittee to include in your bill the following land acquisition proposals:

- California Desert -- $15 million for completion of a major acquisition of 487,000 acres of property owned by the Catellus Corporation. $14.1 million is from the Bureau of Land Management, with $900,000 from the National Park Service.
- San Diego National Wildlife Refuge -- $6 million (FWS).
- Santa Rosa Mountains National Scenic Area -- $1 million (BLM)
- Potrero Creek Basin -- $2 billion (BLM)
- Carrizo Plain Natural Area -- $5 million (BLM).
- Upper Sacramento River -- $2 million (BLM)
- Pinnacles National Monument -- $2 million (NPS)
- Santa Monica Mountains National Recreation Area -- $4.4 million (NPS).
- Otay Mountain/Kuchamaa Habitat Conservation Plan -- $1 million (BLM)

Fish and Wildlife Service

- Natural Community Conservation Planning program -- $2 million to continue supporting this innovative public-private effort in Southern California to develop a system of regional habitat reserves to protect listed species.
- State Non-Game Wildlife Grants -- $100 million in grants to states, tribes and U.S. territories for non-game habitat restoration and planning.
- Section 6 Grants to States -- $41 million to states and local governments for conservation and recovery of threatened and endangered species, including development of habitat conservation plans.

Mr. Chairman, California voters recently approved Proposition 12, a $2.1 billion bond measure for parks, beaches, museums and wildlife conservation. Passage of this historic measure reflects California's strong commitment to making substantial investments in natural resource stewardship efforts. Through your leadership, Congress has an opportunity to match this level of commitment demonstrated by California voters by supporting funding levels for the programs outlined above.

Thank you very much for your consideration. Please let me know if I can be of any assistance.

Sincerely,

Gray Davis

GRAY DAVIS

cc: The Honorable Norm Dicks, Ranking Member

WRITTEN STATEMENT

OF

JAMES D. MOSMAN,
CHIEF EXECUTIVE OFFICER

STATE TEACHERS' RETIREMENT SYSTEM
STATE OF CALIFORNIA

SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES COMMITTEE ON APPROPRIATIONS

U.S. HOUSE OF REPRESENTATIVES

Submitted for the Record
April 6, 2000 Hearing
(Public Witnesses – Natural Resources, Energy, and Other Programs)

Department of Energy – Elk Hills School Lands Fund: $36 million for third annual installment of Elk Hills compensation to State of California (and Administration budget request for advance appropriation of remaining annual installments)

Congress Should Appropriate the Funds Necessary to Fulfill the Federal Government's Settlement Obligation to Provide Compensation for the State of California's Interest in the Elk Hills Naval Petroleum Reserve

Summary

Acting pursuant to Congressional mandate, and in order to maximize the revenues for the Federal taxpayer from the sale of the Elk Hills Naval Petroleum Reserve by removing the cloud of the State of California's claims, the Administration reached a settlement with the State in advance of the sale. The State waived its rights to the Reserve in exchange for fair compensation in installments stretched out over an extended period of time.

Following the settlement, the sale of the Elk Hills Reserve went forward without the cloud of the State's claims and produced a winning bid of $3.65 billion, far beyond most expectations. Last year, Congress appropriated the $36 million necessary to satisfy the Federal Government's obligation to make the second annual installment payment of compensation due in FY 2000 to the State for its interest in the Elk Hills Reserve. This was done by means of an advance appropriation of $36 million to become available at the beginning of FY 2001.

The President's FY 2001 Budget includes a request for an advance appropriation for payment to the State of the remaining five annual installments of compensation due to the State, to be payable in fiscal years 2002-2006 and to be made available on or about October 1 of each fiscal year, as follows: for FY 2002, $36 million; for FY 2003, $36 million; for FY 2004, $36 million; for FY 2005, $60 million; for FY 2006, $60 million.

The California State Teachers' Retirement System respectfully urges the Subcommittee's serious consideration of including in the FY 2001 Interior Appropriations bill an advance appropriation to provide for the remaining annual installments of Elk Hills compensation due to the State. At a minimum, Congress should appropriate for FY 2001 the $36 million to fulfill the Federal Government's obligation to make the third annual installment payment of compensation, due in FY 2001 under the settlement that Congress directed the Administration to achieve.

The entire 52 Member California House delegation recently signed a letter of strong support for the Elk Hills appropriation.

Background

Upon admission to the Union, States beginning with Ohio and those westward were granted by Congress certain sections of public land located within the State's borders. This was done to compensate these States having large amounts of public lands within their borders for revenues lost from the inability to tax public lands as well as to support public education. Two of the tracts of State school lands granted by Congress to California at the time of its admission to the Union were located in what later became the Elk Hills Naval Petroleum Reserve.

The State of California applies the revenues from its State school lands to assist retired teachers whose pensions have been most seriously eroded by inflation. California teachers are ineligible for Social Security and often must rely on this State pension as the principal source of retirement income. Typically the retirees receiving these State school lands revenues are single women more than 75 years old whose relatively modest pensions have lost as much as half or more of their original value to inflation.

Congressional Direction to Settle the State's Claims

In the National Defense Authorization Act for FY 1996 (Public Law 104-106) that mandated the sale of the Elk Hills Reserve to private industry, Congress reserved 9 percent of the net sales proceeds in an escrow fund to provide compensation to California for its claims to the State school lands located in the Reserve.

In addition, in the Act Congress directed the Secretary of Energy on behalf of the Federal Government to "offer to settle all claims of the State of California. . . in order to provide proper compensation for the State's claims." (Public Law 104-106, § 3415). The Secretary was required by Congress to "base the amount of the offered settlement payment from the contingent fund on the fair value for the

State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund." *(Id.)*

Settlement Reached That Is Fair to Both Sides

Over the course of the year that followed enactment of the Defense Authorization Act mandating the sale of Elk Hills, the Administration and the State engaged in vigorous and extended negotiations over a possible settlement. Finally, on October 10, 1996 a settlement was reached, and a written Settlement Agreement was entered into between the United States and the State, signed by the Secretary of Energy and the Governor of California.

The Settlement Agreement is fair to both sides, providing proper compensation to the State and its teachers for their State school lands and enabling the Federal Government to maximize the sales revenues realized for the Federal taxpayer by removing the threat of the State's claims in advance of the sale.

Federal Revenues Maximized by Removing Cloud of State's Claim in Advance of the Sale

The State entered into a binding waiver of rights against the purchaser in advance of the bidding for Elk Hills by private purchasers, thereby removing the cloud over title being offered to the purchaser, prohibiting the State from enjoining or otherwise interfering with the sale, and removing the purchaser's exposure to treble damages for conversion under State law. In addition, the State waived equitable claims to revenues from production for periods prior to the sale.

The Reserve thereafter was sold for a winning bid of $3.65 billion in cash, a sales price that substantially exceeded earlier estimates.

Proper Compensation for the State's Claims as Congress Directed

In exchange for the State's waiver of rights to Elk Hills to permit the sale to proceed, the Settlement Agreement provides the State and its teachers with proper compensation for the fair value of the State's claims, as Congress had directed in the Defense Authorization Act.

While the Federal Government received the Elk Hills sales proceeds in a cash lump sum at closing of the sale in February, 1998, the State agreed to accept compensation in installments stretched out over an extended period of 7 years without interest. This represented a substantial concession by the State. Congress had reserved 9 percent of sales proceeds for compensating the State. The State school lands' share had been estimated by the Federal Government to constitute 8.2 to 9.2 percent of the total value of the Reserve. By comparison, the present value of the stretched out compensation payments to the State has been determined by the Federal Government to represent only 6.4 percent of the sales proceeds, since the State agreed to defer receipt of the compensation over a 7-year period and will receive no interest on the deferred payments.

Accordingly, under the Settlement Agreement the Federal Government is obligated to pay to the State as compensation, subject to an appropriation, annual installments of $36 million in each of the first 5 years (FY 1999-2003) and the balance of the amount due split evenly between years 6 and 7 (FY 2004-2005).

The Money Is There to Pay the State

The funds necessary to compensate the State have been collected from the sales proceeds remitted by the private purchaser of Elk Hills and are now being held in the Elk Hills School Lands Fund for the express purpose of compensating the State. (The balance in the Elk Hills School Lands fund has been reduced by an approximately $26 million "hold-back" from the State's share pending the final equity determination of the Federal Government's share of the Elk Hills field vis-à-vis its co-owner prior to the sale, Chevron. This escrow will be released once the final equity shares are determined.)

The President Has Requested Appropriation of the Remaining Annual Installments of Compensation Due Under the Settlement Agreement

In the Administration's Budget for FY 2001, the President has requested an advance appropriation for payment to the State of the remaining five annual installments of compensation due to the State under the Settlement Agreement, to be payable in fiscal years 2002-2006 and to be made available on or about October 1 of each fiscal year, as follows: for FY 2002, $36 million; for FY 2003, $36 million; for FY 2004, $36 million; for FY 2005, $60 million; for FY 2006, $60 million. (The Administration's requested appropriations do not include the $26 million "holdback" from the State's share pending the final determination of the Federal Government's equity interest in Elk Hills or the State's 9 percent share of any additional sales proceeds that the Federal Government would receive upon increase of its equity interest.)

Congress Should Appropriate the Funds Due Under the Settlement that Congress Directed the Administration to Achieve

The California State Teachers' Retirement System respectfully urges the Subcommittee's serious consideration of including in the FY 2001 Interior Appropriations bill an advance appropriation to provide for the remaining annual installments of Elk Hills compensation due to the State under the Settlement Agreement with the Federal Government. At a minimum, Congress should appropriate for FY 2001 the $36 million to fulfill the Federal Government's obligation to make the third annual installment payment of compensation due in FY 2001 under the settlement that Congress directed the Administration to achieve. The entire 52 Member California House delegation recently signed a letter dated March 17, 2000 to the House Interior Appropriations Subcommittee strongly supporting the Elk Hills appropriation.

Congress of the United States

Washington, DC 20515

March 17, 2000

Chairman Ralph Regula
Subcommittee on Interior Appropriations
2309 RHOB
Washington, DC 20515

Dear ~~Mr. Chairman~~ Ralph:

We are writing to strongly urge the fullest possible appropriation of funds to pay the State of California the compensation needed to fulfill the Federal Government's obligation under its Settlement Agreement with the State regarding the Elk Hills Naval Petroleum Reserve.

As you know, Congress acknowledged the State of California's longstanding claims to the State school lands located within the Reserve by setting aside a portion of the proceeds from the sale of Elk Hills to settle the State's claims. Congress also directed the Secretary of Energy to negotiate a settlement with the State. The settlement agreement between the federal government and State of California that resulted enabled the Federal Government to maximize the sales revenues for the Federal taxpayer by removing the threat of the State's claims in advance of the sale as well as the ability of the State to interfere with the sale. In return, the Settlement Agreement provided proper compensation to the State, as Congress had directed, for these lands that had been granted to the State at the time of its admission to the Union. The Settlement Agreement obligates the Federal Government to make installment payments of compensation to the State over a seven-year period without interest. The State's adherence to the Settlement Agreement removed the cloud of the State's claims and enabled the Federal Government to sell the Elk Hills Reserve for $3.65 billion, substantially more than had been anticipated.

The Administration's budget for FY 2001 has proposed an "advance appropriation" for the remaining annual installments of compensation due to the State of California, a suggestion we hope you will consider. The funds are there, having been set aside from the sales proceeds in an escrow fund in the federal budget for the purpose of compensating the State, as Congress has directed. In

1998 and 1999, and now for the third time, the California House delegation has written to you in strong support of the appropriation of this Elk Hills compensation. Adopting an advance appropriation this year to provide for the remaining annual installments would relieve your Subcommittee of the burden of having to address this issue, and contend with the Senate, four more times in the future.

Further, we would accept the language inserted in the conference report accompanying last year's Interior appropriations as a means of spelling out the intent of Congress with regard to these future payments. That language providing that the year 2000 "payment will be delayed until October 1, 2000, and the payment should be made on that date or as soon thereafter as possible." We would gladly accept these terms -- providing for pay-out of each annual installment on October 1 of the following fiscal year -- for the remaining future installments, as a condition for guaranteeing that the remaining payments due our State are made.

The California Congressional delegation appreciated your decision to include $36 million for the second installment of compensation in the House Interior Appropriations bill for FY 2000 and for seeing that funding was included in the conference report. We would very much appreciate your serious consideration of including in the FY 2001 Interior Appropriations bill an advance appropriation to provide for the remaining annual installments of Elk Hills compensation due to the State. At the minimum, we strongly urge the appropriation of $36 million for FY 2001 to pay the State of California the third annual installment of compensation due under the Settlement Agreement with the State regarding the Elk Hills Naval Petroleum Reserve.

Best regards,

Gary Condit

GARY CONDIT, MC

Bill Thomas

BILL THOMAS, MC

Cal Dooley

CAL DOOLEY, MC

James Rogan

JAMES ROGAN, MC

GEORGE MILLER, MC

TOM LANTOS, MC

MATTHEW MARTINEZ, MC

ELTON GALLEGLY, MC

JOE BACA, MC

HOWARD BERMAN, MC

MIKE THOMPSON, MC

JERRY LEWIS, MC

DAVID DREIER, MC

ZOE LOFGREN, MC

CHRIS COX, MC

LUCILLE ROYBAL-ALLARD, MC

ELLEN TAUSCHER, MC

NANCY PELOSI, MC

SAM FARR, MC

HOWARD P. MCKEON, MC

GRACE NAPOLITANO, MC

LORETTA SANCHEZ, MC

LYNN WOOLSEY, MC

RANDY CUNNINGHAM, MC

RON PACKARD, MC

MARY BONO, MC

STEVE HORN, MC

BOB FILNER, MC

BRIAN BILBRAY, MC

GEORGE RADANOVICH, MC

JULIAN DIXON, MC

KEN CALVERT, MC

TOM CAMPBELL, MC

PETE STARK, MC

RICHARD POMBO, MC

WALLY HERGER, MC

GARY MILLER, MC

ANNA ESHOO, MC

ROBERT T. MATSUI, MC

BARBARA LEE, MC

XAVIER BECERRA, MC

DANA ROHRABACHER, MC

DOUG OSE, MC

BRAD SHERMAN, MC

JUANITA MILLENDER-MCDONALD, MC

MAXINE, WATERS, MC

HENRY WAXMAN, MC

LOIS CAPPS, MC

JOHN T. DOOLITTLE, MC

STEVEN KUYKENDALL, MC

ED ROYCE, MC

DUNCAN HUNTER, MC